

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION NO.4889 OF 2009

ORDER:

This case came up for final hearing on 15.11.2016 and at request of the petitioner, it was adjourned to today. Today, when the case is called in the morning, a representation is made on behalf of the learned counsel for the petitioner for a 'pass-over' and when the matter is taken up after lunch, a request is made for an adjournment. The same is rejected. The Writ Petition is being disposed of on the basis of the record available.

The petitioner claims that he is the absolute owner and possessor of house plot bearing No.5 admeasuring 244.44 square yards (Ac.0.05 cents) in layout LP.No.38 of 2003 in Survey Nos.123, 126 and 127 (Ward No.43) of Kurnool Town, having purchased the same under registered sale deed dated 14.10.2003. He applied for building permission for construction of a residential house in the said plot vide building application dated 11.08.2008. His case is that the plot is situated in a residential zone as per the master plan of Kurnool City but the building plan was returned by an endorsement dated 02.09.2008. Challenging it, the present Writ Petition is filed.

None appears for the respondents but as per the counter affidavit filed by the first respondent, the petitioner purchased the property from R.R. Associates, which is no way connected with Kurnool Polamula Christian Baptist Sangam. The locality where the petitioner's plot is situated is notified as "public and semi-public" in Kurnool Municipal Corporation Master plan. Later, as per G.O.Ms.No.205 M.A. Housing, Municipal Administration and Urban Development Department dated

19.04.1989, the land is situated in Survey Nos.126, 123 and 127 belonging to E.C.M. High School for girls, which is an aided school affiliated to Government of Andhra Pradesh. As per Section 28 of the Andhra Pradesh Education Act, 1982, no sale, mortgage, lease, pledge, charge or transfer of possession of the property held by a private institution other than a registered school shall be made except with the prior permission in writing by the competent authority. The District Educational Officer, Kurnool, in his letter dated 25.10.1996, stated that the property in various survey numbers belongs to ECM High School and they are encumbered to Education Department and requested not to approve the housing layout plans for the said survey numbers. In those circumstances, the layout application dated 17.08.1990 presented by one Rev. Sri B.Sam Raju was rejected. The land in Survey Nos.123, 126 and 127 of Kurnool is earmarked as playground for ECM Girls High School. Initially, the land was sold out by one KPBSS, which is a society of Christian Missionary by making flats in the year 1986. After rejection of the layout application, the said KPBSS society sold sites to R.R. Associates, a private firm represented by Sri S.V.Nagi Reddy, Y.Ramana Reddy and others, who approached the concerned authorities for sanction of the layout. The Director of Town and Country Planning, Government of Andhra Pradesh, in his proceedings dated 01.07.2003, approved the layout plan by imposing some conditions. Later on, the conditions were fulfilled and the layout was released to the owners. The land of the petitioner is situated in the said layout. When the building application of the petitioner came up for consideration, the first respondent received a letter dated 22.11.2006 from the Collector and the District Magistrate, Kurnool directing the Corporation to take action on the recommendation

made by the House Committee on 'Illegal occupations of the properties to Christian Minorities and Educational Institutions'. The House Committee was formed by the Twelfth Legislative Assembly, which presented an interim report to the Hon'ble Speaker on 17.05.2006. In those circumstances, the application submitted by the petitioner was returned.

It is clear from the above facts that the application of the petitioner was returned on the basis of the interim report submitted by the House Committee and this Court is not apprised of the subsequent developments in the case by the learned counsel for the respondents. In the circumstances, this Writ Petition is disposed of giving liberty to the petitioner to resubmit the building application, if he so desires and the respondents shall consider the same in accordance with law.

The Writ Petition is, accordingly, disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(A.RAMALINGESWARA RAO, J)

22<sup>nd</sup> November 2016  
RRB